

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MAINE

U.S. DISTRICT COURT  
BANGOR, MAINE  
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HILDA L. SOLIS, Secretary of Labor,  
United States Department of Labor,  
Plaintiff,  
v.  
MICHAEL HARTT, NORTHERN LOG HOMES, INC.,  
and THE NORTHERN LOG HOMES SIMPLE IRA  
PLAN,  
Defendants  
\*\*\*\*\*

BY \_\_\_\_\_  
DEPUTY CLERK  
CIVIL ACTION  
NO. 09-CV-00620 JAW

**CONSENT JUDGMENT AND ORDER**

Defendants Michael Hartt, Northern Log Homes, Inc. ("Northern") and the Northern Log Homes, Inc SIMPLE IRA Plan (the "Plan") and Plaintiff, Hilda L. Solis, Secretary of Labor, United States Department of Labor, (the "Secretary") have agreed to resolve all matters in controversy in this action and said parties do now consent to entry of a Judgment and Order by this Court in accordance therewith.

The parties agree, for purposes of assessment of the penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l), that the "applicable recovery amount" shall be the amount of \$2,772.48 as set forth in paragraph 1, below. The parties have executed a separate document memorializing the agreement of the parties regarding the assessment and payment of the penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l).

Defendants Michael Hartt, Northern and the Plan have admitted to the jurisdiction of this Court over them and over the subject matter of this action.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Judgment and Order.

Defendants Michael Hartt, Northern and the Plan, having agreed to entry of this Consent Judgment and Order, and with due consideration and being fully advised of the premises,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. A Judgment in the amount of \$10,087.49 has been entered against Defendant Michael Hartt in this matter based upon his failure to ensure that all employee contributions were forwarded to the Plan. Of that total amount, \$7,315.01 is owed to Defendant Michael Hartt. Defendant Hartt has waived his interest in that Judgment amount. Accordingly, Defendant Michael Hartt hereby is ordered to restore to the accounts of non fiduciary plan participants the amount of \$2,772.48 plus interest at the post judgment interest rate, calculated from the date of this order to the date of payment as set forth in Appendix A to this Judgment.

2. Within thirty (30) days of entry of this Consent Judgment and Order, defendant Hartt shall ensure that distributions under the Plan are effected. In effecting such distributions, defendant Hartt shall provide the participants with all appropriate options, including but not limited to, providing them the option to have the distribution deposited into a tax deferred investment vehicle. Further, in effecting distributions under the Plan, defendant Michael Hartt shall follow all appropriate steps to locate participants of the Plan, as outlined in the Department of Labor Field Assistance Bulletin 2004-02 attached hereto as Appendix B.

3. Within thirty (30) days after distributions have been effected as set forth in paragraph 2 above, Defendant Michael Hartt shall take all steps to terminate the Plan, including but not limited to executing any and all documents necessary to effect termination of the Plan.

4. Defendant Michael Hartt shall provide the Department of Labor with proof of distributions made under the terms of the Plan. Documentation shall include, but not be limited

to, a list of participants and their addresses together with copies of cancelled checks (front and back) and other receipts which demonstrate that distributions have been made. With respect to providing the Department with notification or verification of matters set forth in this Consent Judgment, said notification shall be provided to: United States Department of Labor, Employee Benefits Security Administration, JFK Federal Building, Room 575, Boston, MA 02203, Attention: Investigator Elizabeth Pereira.

5. Defendant Michael Hartt is permanently enjoined from violating the provisions of Title I of ERISA. Following the termination of the Plan as set forth above, defendant Michael Hartt is enjoined from serving as a fiduciary to any ERISA covered Plan.

6. Each party shall bear its own fees and expenses with respect to this action.

7. The Court shall retain jurisdiction of this matter for the purposes of enforcing this Consent Judgment and Order.

8. Nothing in this Judgment is binding on any governmental agency other than the United States Department of Labor.

IT IS SO ORDERED THIS 6<sup>th</sup> day of October, 2010.

Thomas A. Woodruff  
United States District Judge

Consented to by:  
For the Plaintiff  
Secretary of Labor:

Michael D. Felsen  
Acting Regional Solicitor

Maureen L. Canavan  
Maureen L. Canavan  
Senior Trial Attorney

9/30/10  
Dated

U.S. Department of Labor  
Office of the Solicitor  
J.F.K. Federal Building, Room E-375  
Boston, MA 02203

For the Defendants:

Michael H Hartt 9/27/2010  
Michael Hartt Dated

Michael H Hartt 9/27/2010  
Northern Log Homes, Inc. Dated

Michael H Hartt 9/27/2010  
Northern Log Homes SIMPLE IRA Plan Dated